

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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**D.W.M.**, a minor by Willie Moore, his father, and  
Ursula Moore, his mother, **D.D.M.**, a minor by  
Willie Moore, his father, and Ursula Moore, his mother,  
and **WILLIE MOORE** and **URSULA MOORE**,

**ANSWER OF  
INFANT L.M.**

Plaintiffs,

-against-

2:18-CV-03099-DRH-GRB

**ST. MARY SCHOOL**,  
**BIAGIO M. ARPINO**, *Principal of St. Mary School*,  
and **THE ROMAN CATHOLIC DIOCESE OF  
ROCKVILLE CENTRE**,

**KERRI LECHTRECKER**, individually and as the mother  
of **L.M.**, and infant, "**MIKE**" **JONES**  
and **CHRISTINE JONES**, individually  
and as parents and natural guardians of **M.J.**, an infant;  
and **KRZYSZTOF MARS** and **DOROTA MARS**. Individually  
and as the parents and natural guardians of **M.M.**, an infant,

Defendants.

-----X  
Defendant, infant L.M., by and through his parent and natural guardian, **KERRI  
LECHTRECKER**, appears, through his attorneys, Ray, Mitev & Associates, LLP, and answers the  
Fifth Amended Complaint as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Pars. 1-19, pars. 21-24, Pars. 28, except admits that Plaintiff D.W.M. is African American, Par. 29, Par. 30, except admits that Plaintiff D.D.M. is African American, Par. 31, Par. 32, except admits that Plaintiff Ursula Moore is African American, Par. 33, except admits that Plaintiff Willie Moore is African American, Pars. 34-61, Pars. 64-71, Pars. 73-76, except denies that LM "launched" any "cyberattack", Pars. 78, 79, except denies that LM had engaged in any "anti-social behavior", Par. 80, except denies that LM was or is "dangerous", Pars. 81, 82, except denies that L.M.

“harbored racial animus toward black/African American students”, Pars. 83-108, except denies that “oof” is commonly understood to be anything by anyone, and further denies that the image was “entitled” by L.M., Pars. 109-135, except denies that L.M. had any “anti-social actions” and further denies that this is an allegation capable of definition, Par. 136, denies that there was ever “anti-social behavior in the past” from which L.M. was protected from by Institutional Defendants, Pars. 137-276, Pars. 286-295, admits further that the events as alleged took place in Suffolk County, and that any documents referenced therein speak for themselves, and otherwise refers all questions of law or fact to trial of this matter.

2. Admits Par. 20.
3. Admits Par. 25.
4. Admits Par. 26.
5. Does not contest venue (Par. 27) or jurisdiction, which has already been determined by Order of this Court, dated Aug. 27, 2019.
6. Denies Pars. 62, 63, 72, to the extent it can be construed to set forth an allegation as against answering Defendant, 77, 277-282, 283, 284, 285.

#### **RESPONSE TO THE FIRST CAUSE OF ACTION**

7. Dismissed by Memorandum & Order dated 8/27/2019.

#### **RESPONSE TO THE SECOND CAUSE OF ACTION**

8. Dismissed by Memorandum & Order dated 8/27/2019.

#### **RESPONSE TO THE THIRD CAUSE OF ACTION**

9. Dismissed by Memorandum & Order dated 8/27/2019.

#### **RESPONSE TO THE FOURTH CAUSE OF ACTION**

10. Dismissed by Memorandum & Order dated 8/27/2019.

**RESPONSE TO THE FIFTH CAUSE OF ACTION**

11. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO THE SIXTH CAUSE OF ACTION**

12. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO THE SEVENTH CAUSE OF ACTION**

13. Deny the allegations, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO THE EIGHTH CAUSE OF ACTION**

14. Dismissed by Memorandum & Order dated 8/27/2019.

**RESPONSE TO THE NINTH CAUSE OF ACTION**

15. Dismissed by Memorandum & Order dated 8/27/2019.

**RESPONSE TO THE TENTH CAUSE OF ACTION**

16. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**FIRST AFFIRMATIVE DEFENSE**

17. What remains of the Fifth Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

18. Plaintiffs have failed to establish that they suffered any damages whatsoever.

**THIRD AFFIRMATIVE DEFENSE**

19. The complaint fails to comply with the pleading requirements of Rule 8 and is therefore a nullity.

**FOURTH AFFIRMATIVE DEFENSE**

20. The Plaintiffs are barred by one or more applicable statute of limitations.

**FIFTH AFFIRMATIVE DEFENSE**

21. The Plaintiffs have not pleaded a cognizable tort in the State of New York and therefore cannot recover under any theory of law.

**SIXTH AFFIRMATIVE DEFENSE**

22. The Plaintiffs' claims are barred by the doctrine of waiver and/or estoppel.

**SEVENTH AFFIRMATIVE DEFENSE**

23. The Plaintiffs have failed to mitigate any alleged damages.

**EIGHTH AFFIRMATIVE DEFENSE**

24. The Plaintiffs' claims are barred by the doctrine of contributory negligence.

**NINTH AFFIRMATIVE DEFENSE**

25. The Plaintiffs cannot establish one or more necessary elements to support a cause of action for Intentional Infliction of Emotional Distress.

**WHEREFORE**, the answering Defendant demands that the sole remaining claim against him be dismissed, with prejudice, and for such other relief as the Court deems just and proper, including awarding Defendant the costs of this action, plus reasonable attorneys' fees.

Dated: September 9, 2019  
Miller Place, NY

Yours, etc.,



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Ray, Mitev & Associates, LLP  
Attorneys for Kerri Lechtrecker, o/b/o  
Infant "L.M."  
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To: Clerk of the Court  
All Parties  
VIA ECF

**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record herein, hereby certifies that on September 9, 2019, the foregoing **Answer of Infant L.M.**, was served by First-Class U.S. Mail and via ECF to the following person(s):

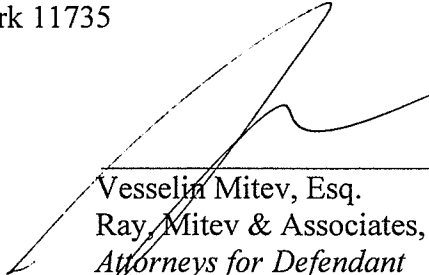
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*Infant "L.M."*  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Docket No. 18-CV-03099 (DRH) (GRB)

Year: 2018

Hon. Denis R. Hurley

**D.W.M.**, a minor by Willie Moore, his father, and  
Ursula Moore, his mother, **D.D.M.**, a minor by  
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and **WILLIE MOORE** and **URSULA MOORE**,

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and as the parents and natural guardians of **M.M.**, an infant,

Defendants.

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**ANSWER OF INFANT L.M.**

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**RAY, MITEV & ASSOCIATES, LLP**

*Attorneys for Defendant*

122 North Country Road

P. O. Box 5440

Miller Place, New York 11764-1117

(631) 473-1000

To: All Counsel

Signature (Rule 130-1.1-a)

...../S/.....

Vesselin Mitev, Esq.

Service of a copy of the within

Dated,

is hereby admitted.

.....  
Attorney(s) for

Dated: Miller Place, New York

September 9, 2019

Yours, etc.,

**RAY, MITEV & ASSOCIATES, LLP**

*Attorneys for Defendant LM*

122 NORTH COUNTRY ROAD

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